

98 FERC ¶ 61, 282  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
and Nora Mead Brownell.

New York Independent System Operator, Inc.	Docket Nos. ER01-3009-003, ER01-3009-004, ER01-3153-003, and ER01-3153-004
Morgan Stanley Capital Group, Inc. v.	Docket Nos. EL00-90-003 and EL00-90-004
New York Independent System Operator, Inc.	

ORDER ON REQUEST FOR CLARIFICATION OR,  
IN THE ALTERNATIVE, FOR REHEARING AND STAY

(Issued March 14, 2002)

In this order, we reject the NYISO's request for clarification or, in the alternative, for rehearing and stay of our January 31, 2002 order in this proceeding.<sup>1</sup> In that order, the Commission denied requests for rehearing of the October 25, 2001 order in this proceeding,<sup>2</sup> in which we accepted for filing revisions to the tariff of the New York Independent System Operator, Inc. (NYISO) to implement virtual bidding and conditionally approved NYISO's proposed credit policy requirements. The January 31 Order also accepted, in part, and rejected, in part, NYISO's compliance filing, directed by the October 25 Order. NYISO seeks clarification that removing the \$1113/MWh floor on the collateral required to support virtual bids of generation and load submitted in the Day-Ahead Market and settled in the Real-Time Market will satisfy the Commission's directive in the that order. We believe that our decision in this order benefits customers by promoting confidence in the NYISO-administered markets, which will increase supply, improve reliability, and in the long run, create more efficient energy prices.

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<sup>1</sup>New York Independent System Operator, Inc., 98 FERC ¶ 61,077 (2002).

<sup>2</sup>New York Independent System Operator, Inc., 97 FERC ¶ 61,091 (2001).

We find that none of the arguments raised in NYISO's request for clarification and/or rehearing justify modification of the January 31, 2002 Order. Therefore, we will deny these requests. Since we deny NYISO's request to clarify that removing the \$1113/MWh floor on the collateral required to support virtual bids of generation for Virtual Transactions satisfies the Commission's directive in the January 31 Order, we will also reject NYISO's February 20 compliance filing.<sup>3</sup>

## I. Background

The October 25 Order accepted in part and rejected in part NYISO's proposed revisions to its Open Access Transmission Tariff (OATT) and Services Tariff to implement Virtual Transactions and to make changes to its credit policies in order to accommodate Virtual Transactions. NYISO's virtual bidding procedures allow non-physical customers to submit bids for purely financial purchases or sales of energy, which do not entail physical generation or consumption of energy. The introduction of virtual bidding enables a customer to buy energy ("virtual load") in the Day-Ahead Market at day-ahead prices and sell it in the Real-Time Market at real-time prices or to sell energy ("virtual supply") in the Day-Ahead Market at day-ahead prices and buy energy to cover that sale in the Real-Time Market at real-time prices.

The credit requirements proposed by NYISO that were conditionally approved in the October 25 Order, require that virtual transactions be fully collateralized; that is, virtual bidding participants must maintain a cash deposit or an irrevocable letter of credit to support virtual market transactions. The credit policy requirements provide that NYISO may suspend services to a customer for failure to maintain creditworthiness. The October 25 Order directed NYISO to change the formula for determination of the amount of the collateral to reflect a seven-day collateralization period and to include the credit policy requirements into its tariff.

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<sup>3</sup>On February 20, 2002, NYISO submitted to the Commission a compliance filing and revisions to its Market Administration & Control Area Services Tariff (Services Tariff) to modify its credit policies, under ER01-3009 et al., applicable to bids of non-physical generation and load into the Day-Ahead Market that are settled in the Real-Time Market. (February 20 compliance filing). This filing was noticed on February 22, 2002, with a March 13, 2002 date established for comments, protests, and interventions.

## II. Clarification Request

NYISO is requesting that the Commission clarify that in removing the \$1113/MWh minimum collateral requirement proposal for Virtual Transactions contained in its November 27 compliance filing, NYISO satisfied the Commission's requirement that NYISO remove the minimum collateral requirement from the interim credit policies applicable to Virtual Transactions. According to NYISO, the January 31 Order allowed NYISO to require Virtual Customers to furnish collateral based on the greater of Price Deltas<sup>4</sup> occurring in the most current three-month period, or in the most recent June, July and August period.

While we will clarify the January 31 Order, we do not agree that the order should be clarified in the manner NYISO requests. In the January 31 Order, we reiterated our determination in the October 25 Order that:

[t]he virtual market is expected to bring about convergence of the day-ahead and real-time prices, and as a result the amount of collateral required will also decrease. NYISO's minimum collateral requirement, in essence, sets a limit to such convergence and thus must be rejected. We also note that this provision appeared neither in NYISO's original virtual bidding filing nor in any comments or protests submitted in that proceeding.

NYISO states that the alternative use of the higher of price delta was a well established component of the interim credit policy. However, this provision was not contained in either NYISO's initial filing in this proceeding or in Addendum A<sup>5</sup> to the registration packet for NYISO customers, nor was it addressed in the comments and protests to NYISO's initial filing. In Addendum A, the price delta is based on "...the largest price delta (the difference between the Day-Ahead Market and the Real-Time Market prices), which occurred during a three month rolling average (during peak hours in any of the Zones) at the 97th percentile." Thus, pursuant to Addendum A, the price delta to be used for setting the minimum collateral requirement is to be taken from the most recent three-month period.

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<sup>4</sup>The Price Delta is the difference between the Day-Ahead Market and the Real-Time Market for a given time period. NYISO will use the greatest price delta that will not be exceeded 97 percent (97th percentile) of the time in any zone over the previous three months as a basis for the collateral determination.

<sup>5</sup>Financial Assurance Policy and Procedures for Virtual Transactions

Had NYISO simply incorporated this Addendum A language into its tariff, NYISO would have complied with the October 25 Order. Instead, NYISO sought in its November 27 compliance filing to establish a hard floor to its minimum collateral requirement. NYISO has not corrected this problem in its February 20 compliance filing. Rather, in its request for clarification, NYISO requests the Commission to clarify that a formula establishing a hard floor is acceptable.

NYISO argues that as markets move from the shoulder months, when price deltas are at a minimum, to the peak months, when price deltas reach maximums, the lower previously established price deltas leave it financially exposed. We believe that NYISO is adequately protected from financial exposure because it may reset the price delta to adjust its minimum within a day of setting a new 97th percentile price delta.<sup>6</sup> In addition, NYISO has imposed limits on receivables vis-a-vis collateral, may suspend participants and/or markets, can monitor markets, and can invoke various market mitigation measures. For these reasons, we do not believe NYISO needs to base the minimum on the yearly peak delta price as it proposes.

NYISO requests the Commission to clarify that the minimum requirement would only be adjusted upward, upon the occurrence of a price delta 10 percent greater than the current price delta. In NYISO's Addendum A, which the Commission intended to be the basis of NYISO's compliance filing, the collateral requirement is based on "...the largest price delta (the difference between the Day-Ahead Market and the Real-Time Market prices), which occurred during a three-month rolling average (during peak hours in any of the Zones) at the 97th percentile."<sup>7</sup> This language requires NYISO to increase that collateral requirement when a new price delta exceeds that set within the three month period by 10 percent, but does not preclude the minimum from decreasing, and in fact, requires the minimum be set as determined by the delta at the 97th percentile for the previous three months. Over time the virtual market should result in a convergence in Day-Ahead and Real-Time pricing. The Commission will not approve an artificial constraint on such convergence caused by a minimum collateral requirement that is based on the previous year's price delta. We remind NYISO that all matters affecting rates, terms and conditions of jurisdictional transactions must be on file with the Commission in a timely manner. It is insufficient for such provisions as creditworthiness or collateral provisions to be well established components of a policy; they must be on file with the Commission.

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<sup>6</sup>NYISO may reset the minimum collateral requirement whenever the current 97th percentile price delta experienced during the past three months is exceeded by 10 percent.

<sup>7</sup>Id.

The Commission orders:

(A) NYISO's request for clarification is hereby denied, as discussed in the body of this order.

(B) NYISO's requests for rehearing and stay are also denied, as discussed in the body of this order.

(C) NYISO's February 20 compliance filing is hereby rejected, as discussed in the body of this order.

(D) Within 20 days of the date of issuance of this order, NYISO shall file a revised compliance filing consistent with the discussion in this order.

By the Commission.

( S E A L )

Linwood A. Watson, Jr.,  
Deputy Secretary.